

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 JANICE LACHMAN  
Supervising Deputy Attorney General  
3 LORRIE M. YOST  
Deputy Attorney General  
4 State Bar No. 119088  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 445-2271  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
**BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 864-A

12 **KEITH TIMOTHY FLAHERTY**

13 **2761 Greenbrook Drive**  
14 **Camino, CA 95709**  
**Civil Engineer License No. C 39542**

**A C C U S A T I O N**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. David E. Brown (Complainant) brings this Accusation solely in his official capacity  
20 as the Executive Officer of the Board for Professional Engineers and Land Surveyors,  
21 Department of Consumer Affairs.

22 2. On or about August 23, 1985, the Board for Professional Engineers and Land  
23 Surveyors issued Civil Engineer License Number C 39542 to Keith Timothy Flaherty  
24 (Respondent). The Civil Engineer License was in full force and effect at all times relevant to the  
25 charges brought herein and will expire on December 31, 2011, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board for Professional Engineers and Land Surveyors (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 6775 of the Code states, in pertinent part, that "[T]he board may reprove, suspend for a period not to exceed two years, or revoke the certificate of any professional engineer registered under this chapter:

.....

"(c) Who has been found guilty by the board of negligence or incompetence in his or her practice.

.....

"(h) Who violates any provision of this chapter."

5. Section 475 of the Title 16, California Code of Regulations states in pertinent part that a violation of this Code of Professional Conduct in the practice of professional engineering constitutes unprofessional conduct and is grounds for disciplinary action pursuant to Section 6775 of the Code. The Code of Professional Conduct states that a licensee shall provide professional services for a project in a manner that is consistent with the laws, codes, ordinances, rules, and regulations applicable to that project.

6. Section 118, subdivision (b), of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Negligence)

3 8. Respondent is subject to disciplinary action under section 6775(c) for negligence in  
4 his practice in that, on or about March 29, 2004, May 18, 2004, June 9, 2004 and June 24, 2004  
5 he provided site plans to Clarence Burgett for the construction of a new manufactured home in El  
6 Dorado County that did not meet the standard of practice or the and were incomplete and not  
7 acceptable under El Dorado County guidelines. The circumstances are that:

8 A) The site plan prepared by Respondent was deficient in that it failed to meet the standard  
9 necessary to gain approval of the site plan by El Dorado County. These deficiencies  
10 are:

- 11 1) The site plan did not show the entire parcel.
- 12 2) Finished floor elevations were not shown.
- 13 3) The distance between structures was not shown.
- 14 4) Property line setbacks were not shown on the site plan.
- 15 5) Parking spaces for at least two vehicles were not shown on the site plan.
- 16 6) Easements on the property were not shown on the site plan.
- 17 7) The septic system location, propane tank, and wells were not shown on the site  
18 plan.
- 19 8) The property owner's address was not indicated on the site plan.
- 20 9) A grading plan was not prepared and submitted.

21 B) The site plan was also deficient in that the following items did not meet the standard of  
22 care:

- 23 1) The proposed driveway has a maximum slope of almost 18% and no typical  
24 road cross-section or drainage measures are provided which could lead to  
25 excessive erosion.
- 26 2) The driveway profile is depicted with stations in the plan, yet the driveway plan  
27 does not have any corresponding stations.

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- 1                   3) The drawing notes indicate the project will have 25 yards of cut and 25 yards of  
2                   fill, yet the plans only show the cut area. The fill placement is not indicated and  
3                   the fill placement details provided in the plans are insufficient.

4                                   SECOND CAUSE FOR DISCIPLINE

5                                   (Unprofessional Conduct – Compliance with Applicable Laws)

6                   9.     Respondent is subject to disciplinary action under section 475(a) in that he engaged in  
7                   unprofessional conduct by failing to comply with the El Dorado County Guidelines as described  
8                   in Paragraph 10, subdivision (A), above.

9                                   PRAYER

10                  WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
11                  and that following the hearing, the Board for Professional Engineers and Land Surveyors issue a  
12                  decision:

13                  1.     Revoking or suspending Civil Engineer License Number C 39542, issued to Keith  
14                  Timothy Flaherty.

15                  2.     Ordering Keith Timothy Flaherty to pay the Board for Professional Engineers and  
16                  Land Surveyors the reasonable costs of the investigation and enforcement of this case, pursuant to  
17                  Business and Professions Code section 125.3;

18                  3.     Taking such other and further action as deemed necessary and proper.  
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21                  DATED: 4/13/10

Original Signed

22                  DAVID E. BROWN

Executive Officer

23                  Board for Professional Engineers and Land Surveyors

24                  Department of Consumer Affairs

25                  State of California

Complainant

26                  SA2009310953  
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